

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

EDWARDO ALEXANDRO MATHEW,)
Plaintiff,)
)
v.) C.A. No. 09-253-S
)
CENTRAL FALLS DETENTION FACILITY)
CORPORATION, et al.,)
Defendants.)
)

ORDER

William E. Smith, United States District Judge.

The matter is before the Court on cross-objections by Plaintiff Edwardo Alejandro Mathew and the Federal Defendants (both in their official and individual capacity) to Magistrate Judge Lincoln D. Almond's Report and Recommendation, dated September 30, 2011. (ECF No. 68.) Magistrate Judge Almond recommended that Defendants' motions to dismiss be granted as to all Federal Defendants. As to the Wyatt Defendants, he recommended (1) that the motion to dismiss be granted, with leave to file a second amended complaint within thirty days to pursue an Eighth Amendment claim against the Wyatt Defendants pursuant to 42 U.S.C. § 1983; and (2) that Plaintiff's state law claims against the Wyatt Defendants be dismissed without prejudice. Magistrate Judge Almond also recommended that, if Plaintiff did file a second amended complaint asserting Eighth

Amendment claims against the Wyatt Defendants under 42 U.S.C. § 1983, this Court should exercise supplemental jurisdiction over the state law claims against those defendants. This Court's review of such objections is de novo. See Fed. R. Civ. P. 72(b)(3).

Upon careful review of Plaintiff's objection, and mindful that he represents himself in this matter, it is clear that Plaintiff has not put forth any new legal arguments that would call into question Magistrate Judge Almond's well-reasoned recommendations. The additional evidence furnished by Plaintiff, primarily in the form of letters, and presumably offered with respect to the Federal Tort Claims Act and qualified immunity issues, similarly does not change the outcome.

The Federal Defendants' limited objection is granted insofar as the Report and Recommendation contains any language that could be interpreted as recommending that Plaintiff's state law claims against the Federal Defendants be dismissed without prejudice. Based upon the thorough legal analysis set forth in the Report and Recommendation, it is clear that these claims should be dismissed with prejudice.

With that clarification, the Report and Recommendation of Magistrate Judge Lincoln D. Almond, filed on September 30, 2011, is accepted pursuant to 28 U.S.C. § 636(b)(1). Accordingly,

Defendants' motions to dismiss are GRANTED. Plaintiff's claims against the Federal Defendants are DISMISSED with prejudice. Plaintiff's claims against the Wyatt Defendants are DISMISSED, but Plaintiff is GRANTED leave to file a second amended complaint within thirty days to pursue Eighth Amendment claims against the Wyatt Defendants, pursuant to 42 U.S.C. § 1983. Plaintiff's state law claims against the Wyatt Defendants are DISMISSED without prejudice to Plaintiff's ability to assert those claims in state court or in this Court if Plaintiff avails himself of the leave to amend his complaint as just described.

IT IS SO ORDERED.

William E. Smith

William E. Smith
United States District Judge
Date: December 6, 2011